

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

2012 JUL 30 AM 10:53

U.S. DISTRICT COURT
MIDDLE DISTRICT OF TN

MAXWELL G. HORKINS, III,)
v.)
Plaintiff,)
v.)
MIDLAND CREDIT)
MANAGEMENT, INC.)
Defendant.)

CIVIL ACTION NO. 12-cv-0784

NOTICE OF REMOVAL

COMES NOW Defendant, Midland Credit Management, Inc. ("MCM"), a Kansas corporation, and, while reserving all available defenses, files this Notice of Removal of Cause No. 6136 styled *Maxwell G. Horkins, III vs. Midland Credit Management, Inc.* pending in the Circuit Court of Cheatham County, Tennessee, to the United States District Court for the Middle District of Tennessee, Nashville Division, and would show unto this Honorable Court as follows:

1. On or about June 18, 2012, Plaintiff, Maxwell G. Horkins, III, ("Plaintiff") filed his Complaint against MCM in the Circuit Court of Cheatham, County, Tennessee, Twenty Third Judicial District at Ashland City ("State Court Action"). Copies of all process, pleadings, orders and other papers filed in the State Court Action, as evidenced by the Clerk's Certificate attached hereto as Exhibit "A", are incorporated herein by reference. Copies of all summons and other papers received by MCM are attached hereto as Exhibit "B".

2. Plaintiff alleges that MCM violated the Fair Debt Collection Practices Act ("FDCPA"), specifically 15 U.S.C. §§ 1692, *et seq.*, and the Telephone Communications Protection Act ("TCPA"), specifically 47 U.S.C. §§ 227, *et seq.* See Plaintiff's Complaint, a copy of which is included in composite Exhibit "A".

3. This Court's subject matter jurisdiction is based upon federal question jurisdiction pursuant to 28 U.S.C. § 1331. Removal of this action to this Honorable Court is authorized pursuant to the 28 U.S.C. §§ 1441(a), (c) and 1446. This Honorable Court has supplemental jurisdiction of any and all state law claims pursuant to 28 U.S.C. §§ 1337.

4. Removal of this matter is timely. MCM was served with notice of the original Complaint on July 5, 2012 via Certified Mail. Accordingly, MCM files this Notice of Removal within the 30-day time period provided by 28 U.S.C. § 1446(b).

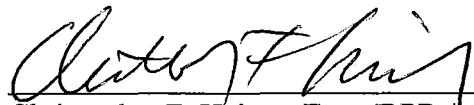
5. Venue is proper in this district under 28 U.S.C. § 1441(a), because this Honorable Court embraces the place where the removed action has been pending.

6. MCM is providing a copy of this Notice of Removal to all counsel of record and will file promptly a copy of same with the clerk of the state court where the action has been pending.

7. By filing this Notice of Removal, MCM does not waive its rights to assert any defenses and/or objections to which it is entitled.

WHEREFORE, Midland Credit Management, Inc. gives notice that Cause No. 6136 styled *Maxwell G. Horkins, III vs. Midland Credit Management, Inc.* in the Circuit Court of Cheatham County, Tennessee, Twenty Third Judicial District at Ashland City has been removed from the State Court to the United States District Court for the Middle District of Tennessee, Nashville Division and Midland Credit Management, Inc. requests that this Honorable Court assume full jurisdiction over this cause as provided by law.

Respectfully submitted, this the 27 day of July, 2012.



Christopher F. Heinss, Esq. (BPR # 23285)
Attorney for Defendant,
Midland Credit Management, Inc.
BALCH & BINGHAM LLP
1901 Sixth Avenue North, Suite 1500
Birmingham, AL 35203-4642
Telephone: (205) 226-3468
Facsimile: (205) 488-5642
E-mail: cheinss@balch.com

CERTIFICATE OF SERVICE

I hereby certify that I have this the 27 day of July, 2012, mailed, postage prepaid, a true and correct copy of this Notice of Removal to the following:

Jason Barnette, Esq.
Barnette Law Offices
2919 Shadyside Road
Saint Albans, WV 25177



Christopher F. Heinss, Esq.